

Remarks

The various parts of the Office Action are discussed below under similar headings.

Claims

Claims 38-40, 42-46 and 48-53 have been amended.

Claims 1-37

It is respectfully requested that Examiner reconsider claims 1-37. It is respectfully submitted that Fitz, Dooris et al. and Soboleski et al., alone or in combination, do not disclose the limitations of claims 1-37.

Interview

On February 23, 2007, a telephone interview was conducted with the Examiner during which claims 38-53 were discussed. It was expressed to the Examiner that claims 38-53 were drafted with the intention of invoking 35 U.S.C. § 112, 6th paragraph. The Examiner indicated that the inclusion of the language “superior implant means” and “inferior implant means” recited too much structure in the Examiner’s opinion and that claims 38-53 were therefore not considered to be means-plus-function type claims. -The Examiner further indicated that removal of “superior implant” and “inferior implant” from the claims would bring the claims into compliance with 35 U.S.C. § 112, 6th paragraph.

It is respectfully submitted that the “superior implant” and “inferior implant” language was not intended to recite structure. Instead, the “superior implant” and “inferior implant” language was included as a shorthand distinction between the “means” to provide antecedent basis for limitations of dependent claims without requiring the repetition the entire function of the “means” in each of the dependent claims.

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At the Examiner's suggestion, the claims have been amended to remove the "superior implant" and "inferior implant" language that the Examiner considered to have imposed structural limitations.

Conclusion

This application is now in condition for allowance and an early action to that effect is earnestly solicited.

Respectfully submitted,

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